

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BOY RACER, INC.,

CASE NO. 5:11-cv-02833 EJD

ORDER TO SHOW CAUSE

Plaintiff(s),

v.

DOES 2-71,

Defendant(s).

On May 31, 2011, Plaintiff Boy Racer, Inc. ("Plaintiff") filed the instant action against 70 unknown "Doe" defendants. See Docket Item No. 2. Thereafter, the court granted Plaintiff's ex parte application for leave to take limited discovery prior to a Rule 26 conference on July 13, 2011, which allowed Plaintiff to serve subpoenas on certain Internet Service Providers to obtain information identifying the Doe defendants such that service of process could be effectuated. See Docket Item No. 8. Pursuant to the ensuing order, Plaintiff was obligated to immediately serve the subpoenas, and the Internet Service Providers and subscribers each had 30 days in which to object to the subpoenas. See id.

Rule 4(m) of the Federal Rules of Civil Procedure provides in pertinent part:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

1 More than 120 days have elapsed since Plaintiff filed the complaint and the court issued its
2 order allowing limited discovery, yet Plaintiff has not filed one proof of service. Thus, Plaintiff
3 shall, no later than December 9, 2011, show cause in writing why it has failed to: (1) file documents
4 to show proof of service of the Summons and Complaint on any defendant to comply with Rule 4(l)
5 of the Federal Rules of Civil Procedure; and (2) accomplish service of the Summons and Complaint
6 on any defendant within 120 days of filing the complaint to comply with Rule 4(m) of the Federal
7 Rules of Civil Procedure. No hearing will be held on the order to show cause unless otherwise
8 ordered by the Court.

9 Plaintiff is notified that the Court will dismiss this action if Plaintiff fails to comply with this
10 Order or otherwise fail to show good cause as directed above.

11 **IT IS SO ORDERED.**

12
13 Dated: November 22, 2011



EDWARD J. DAVILA
United States District Judge